

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**UNITED STATES OF AMERICA ex rel,
and
LAWRENCE M. SMITH,
Plaintiffs,**

v.
DEION L. SANDERS, INDIVIDUALLY
and
PRIMETIME ASSOCIATION,
INDIVIDUALLY,
and
DAMIEN LAMARC WALLACE
A/K/A D. L. WALLACE, INDIVIDUALLY
and
FREDRICK R. MAYS A/K/A F. R. MAYS,
INDIVIDUALLY
and ,
CHAZMA JONES A/K/A CHAZMA
JONES BROWN, INDIVIDUALLY,

Civil Action No. 3:12-CV-4377-M

Referred to U. S. Magistrate Judge

JURY TRIAL DEMANDED

**PLAINTIFFS' SECOND AMENDED MOTION FOR SANCTIONS AND
CONTEMPT OF COURT AGAINST PRO SE DEFENDANT, DEION L. SANDERS**

TO THE HONORABLE JUDGE OF SAID COURT:

1. NOW COME Plaintiffs, United States of America, ex rel, Lawrence M. Smith, with their
Second Amended Motion for Sanctions and Contempt of Court against Pro se defendant, Deion
L. Sanders, pursuant to 28 U.S.C. § 636 (b), for his violations of eleven (11) consecutive orders
in this cause, five (5), of which ordered defendant, Deion L. Sanders to appear in court, during

times when he was represented by counsel and times when he was Pro Se. In Support, Plaintiffs will respectfully show as follows:

ORDERS AND VIOLATIONS

1. On April 13, 2017, Magistrate Judge Irma Ramirez signed her Order(doc.248) specifically requiring Pro Se, Deion Sanders to comply as follows:

“A status conference concerning this issue has been scheduled for **Tuesday, May 2, 2017, at 9:00 a.m.** in courtroom 1566. **All parties must confirm their attendance at least two days prior to the hearing by contacting Courtroom Deputy Marie Castaneda at (214) 753-2167.** Failure to confirm or to attend the conference without obtaining permission of the Court will result in appropriate sanctions.”

Pro se defendant, Deion L. Sanders, violated this order in that he: (a.) without obtaining permission of the Court, willfully and intentionally failed and refused to confirm his attendance at the status conference at least two days prior to May 2, 2017 at 9:00 a.m. and (b.) failed and refused to appear, in person or by counsel, at the status conference on May 2, 2017, at 9:00 a.m. as ordered.

2. On May 2, 2017, Magistrate Judge, Irma Ramirez, signed her Order to Show Cause (doc.263) specifically requiring Pro Se, Deion Sanders to comply as follows:

“Defendant Deion L. Sanders and Prime Time Association, through counsel, failed to confirm attendance at the status conference as ordered, or to appear. No later than 5:00 p.m. on Tuesday, May 9, 2017, these two defendants must show good cause in writing why they failed to comply with the April 13, 2017 order, and why they should not be sanctioned for failing to comply with the order.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to show good cause "in writing" why he failed to appear at the status conference scheduled for May 2, 2017 at 9:00 a.m.

3. May 8, 2017 Agreed Order (doc. 266) signed, Magistrate Judge Irma Ramirez, signed an Agreed Order, specifically requiring Pro Se, Deion Sanders to comply as follows:

- “a. Defendant, Deion L. Sanders, acknowledges proper and timely service of Plaintiffs' Written Interrogatories and Plaintiffs' Requests for Production, on March 19, 2017 by email, and on March 20, 2017, by Certified Mail, Return Receipt Requested.
- b. Defendant, Deion L. Sanders, acknowledges that he been unable to answer and otherwise respond to Plaintiffs' Written Interrogatories and Plaintiffs' Requests for Production.
- c. Subject to the Court's approval, Plaintiffs agree that the time for Defendant, Deion L. Sanders, to provide answers and responses to Plaintiffs' Written Interrogatories and Plaintiffs' Written Requests For Production shall be extended to and due by 5:00 p.m. on June 5, 2017.
- d. Defendant, Deion L. Sanders, by and through his Counsel of record, waives the present deadline of April 28, 2017, for discovery to be completed so that Plaintiffs would not be prejudiced as to the deadline for Discovery.
- e. Defendant, Deion L. Sanders, by and through his Counsel of record, waives any and all objections to Plaintiffs' Written Interrogatories and Plaintiffs' Written Requests For Production.
- f. Plaintiffs do not seek sanctions at this time.
- g. In the event that Defendant, Deion L. Sanders, fails to serve his full and complete answers and responses to Plaintiffs' Written Interrogatories and Plaintiffs' Written

Requests For Production, by 5:00 p.m. on June 5, 2017, Plaintiffs may file their Motion To Compel Discovery seeking appropriate sanctions relative to any failure on the part of Defendant, Deion L. Sanders to comply with this agreement.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to provide any responses, in any form or at any time, to Plaintiffs’ Written Interrogatories or Plaintiffs’ Requests For Production.

4. On June 9, 2017, Magistrate Judge, Irma Ramirez, signed her Third Amended Scheduling Order (doc. 285), regarding Mediation, specifically requiring Pro se defendant, Deion L. Sanders, to comply as follows:

“No later than **July 16, 2017**, the parties are to engage in mediation. A party with full settlement authority up to the limits of the opposing party’s demand must be present throughout the discussions.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to engage in mediation at any time, including the time period beginning June 9, 2017 through July 16, 2017, as ordered.

5. On June 19, 2017, Magistrate Judge Paul D. Stickney signed his Order (doc. 293), regarding Mediation, specifically requiring Defendant, Deion Sanders, to comply as follows:

“Pursuant to the parties' request, the Court hereby sets a settlement conference between Plaintiffs and Defendants Damien LaMarc Wallace, Fredrick R. Mays, Chazma Jones, Deion L. Sanders, and Prime Time Association on **MONDAY, JULY 17, 2017, at 9:00 A.M.**, and between Plaintiffs and Defendants Deion L. Sanders and Prime Time Association on **THURSDAY, JULY 20, 2017, at 9:00 A.M.**, convening in Courtroom 1620, 1100 Commerce St., Dallas, Texas. Parties with full settlement authority and their counsel shall be present at the conference. The parties are not required to submit any

information to the Court prior to the settlement conference, but if they wish to do so, they may submit the information to: Stickney_Orders@txnd.uscourts.gov no later than **THURSDAY, JULY 13, 2017**. The parties are ordered not re-submit any information that has already been filed with the Court.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed to appear at the settlement conference on **Monday, July 17, 2017, at 9:00 A.M.** Further, Pro se defendant, Deion L. Sanders, intentionally and willfully failed and refused to appear at the mediation scheduled for **Thursday, July 20, 2017 at 9:00 a.m.** Such violations are documented by the REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE CHARLES STICKNEY, (doc.319) in which Magistrate Judge Charles Stickney states the following: “Mr. Sanders’s refusal to attend and participate in the settlement conferences caused a waste of judicial resources and the parties’ time. As a result of this conduct, the undersigned recommends that Mr. Sanders be held responsible for the costs and attorney’s fees incurred by Plaintiffs and Co-Defendants. Further, the undersigned recommends that an order to show cause be entered ordering Mr. Sanders to appear and show cause as to why he should not be held in contempt and/or assessed sanctions for failing to comply and Court’s Order.”

6. On July 7, 2017, Magistrate Judge Irma Ramirez, signed her Order (doc.303) specifically requiring Pro Se, Deion Sanders, to comply as follows Order:

“Defendant Deion L. Sanders must produce his responses to relator’s discovery requests and all responsive documents by the close of business on July 12, 2017, unless otherwise agreed by the parties. As noted in order dated, 2017, all objections are deemed waived.”

Pro se defendant, Deion L. Sanders, violated this order in that he has intentionally and willfully failed and refused to produce his responses to relator’s discovery requests at any time.

7. On July 21, 2017, Magistrate Judge Irma Ramirez signed her Order (doc. 318) specifically requiring Pro Se, Deion Sanders to comply as follows:

“An oral argument concerning the motion to compel has been scheduled for **Friday, August 11, 2017, at 9:00 a.m.** in courtroom 1566. Defendant Deion L. Sanders is hereby ORDERED to attend the oral argument concerning this dispute. Failure to attend the oral argument by Mr. Sanders shall result in imposition of sanctions against him.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to attend the oral argument scheduled for **Friday, August 11, 2017, at 9:00 a.m.**

8. On August 11, 2017, Magistrate Judge Irma Ramirez signed her Order (doc. 346) specifically requiring Defendant, Deion Sanders to comply as follows:

“1. The relator’s request for an award of costs and attorneys’ fees associated with the filing of its motion under FED R. CIV. P. 37(b)(2) is **GRANTED**. Costs and fees in the amount of \$2,200.00, which the Court finds is reasonable and necessary, are assessed against defendant Deion L. Sanders. He must tender this amount to the relator’s counsel within fourteen (14) days of the date of this order.”

“2. Defendant Deion L. Sanders must produce his responses to relator’s discovery requests and all responsive documents by the close of business on August 25, 2017, unless otherwise agreed by the parties. As noted in the agreed order dated May 8, 2017 (doc. 266), all objections are deemed waived.”

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to “tender \$2,200.00 to the relator’s counsel within fourteen (14) days of the date of this order,” which was August 25, 2017, or at any other time. Pro se defendant, Deion L.

Sanders, further violated this order in that he intentionally and willfully failed and refused to produce his responses to relator's discovery requests and all responsive documents by the close of business on August 25, 2017, or at any other time.

9. On August 11, 2017, Magistrate Judge Irma Ramirez signed her Show Cause Order (doc. 350) specifically requiring Pro Se, Deion Sanders to comply as follows:

“Mr. Sanders is hereby **ORDERED** to Show Cause at an evidentiary hearing for why his pleadings should not be stricken, and default entered, as discovery sanction under Rule 37(b)(2) for his failure to comply with the discovery orders dated May 8, 2017 (doc. 266) and July 7, 2017 (doc. 303), and with order to appear at a discovery hearing dated July 21, 2017 (doc. 318). **An evidentiary hearing is set for Friday, September 1, 2017, at 10:00 A.M. before United States Magistrate Judge Irma Carrillo Ramirez, in Courtroom 1566, 1100 Commerce Street, Dallas, Texas. Failure to appear at the hearing will result in sanctions.”**

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to appear in this court on September 1, 2017 at 10:00 A.M. before Magistrate Judge Irma Carrillo Ramirez in Courtroom 1566, 100 Commerce Street, Dallas, Texas, after receiving notice that **“Failure to appear at the hearing will result in sanctions.** Such violation was documented by the Court on September 1, 2017, as follows: “ELECTRONIC Minute Entry (doc. 378) for proceeding held before Magistrate Judge Irma Carrillo Ramirez: Evidentiary Hearing NOT HELD on 9/1/2017. Deion L. Sanders did no appear or otherwise notify the court.” (doc. 350).

10. On August 11, 2017, The honorable Magistrate Judge, Irma Ramirez signed her Order FOR SERVICE OF ORDERS ON DEFENDANT DEION L. SANDERS (doc. 352), specifically requiring pro se defendant, Deion L. Sanders, to comply as follows:

“The pro se defendant shall provide the Court with the correct address within seven days of the date of this order.” The subject order (doc. 352) was served on pro se defendant, Deion L. Sanders, by email to deionssr@aol.com on August 11 2017, at 4:55 p.m. by Rachel Carter, Operations Support Specialist, US. District Court, Northern District of Texas. Pro Se defendant, Deion L. Sanders established that he had received notice of the Court’s Order (doc. 354-1) by his actions in “forwarding” the email notice back to Rachel Carter Operations Support Specialist, US. District Court, Northern District of Texas, with “Cc” to Rick Robertson rick@koonsfuller.com.

Pro se defendant, Deion L. Sanders, violated this order in that he intentionally and willfully failed and refused to provide his correct address to the court within seven days (7) days of the date of the order,” which was August 18, 2018 or at any other time.

APPLICABLE LAW

11. In order to recommend finding pro se defendant, Deion L. Sanders, in contempt, the Court must be satisfied by clear and convincing evidence “1) that a court order was in effect, 2) that the order required certain conduct by the respondent, and 3) that the respondent failed to comply with the court’s order.” *Martin v. Trinity Indus., Inc.*, 959 F.2d 45, 47 (5th Cir. 1992).

NOTICE TO DEFENDANT

12. Pro se defendant, Deion L. Sanders, received notice of all orders and settings referred to above. More specifically. All filings by parties, Court orders, and settings relative to this cause were served on Pro se defendant, Deion L. Sanders, through his counsel of record, John D. Nation and Andrea L. Nation through the ecf_txnd@txnd.uscourt.gov until August 11, 2017, when said counsel withdrew as counsel of record for Pro se defendant, Deion L. Sanders,. Thereafter, all communications from the Court to Pro se defendant, Deion L. Sanders, were by email to deionssr@aol.com, all of which were documented as received by Pro Se , Deion L. Sanders.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Pro Se, Deion L Sanders be held in contempt of Court for each of his numerous violations described above, and punished in a manner determined by the Court to be appropriate, including striking Pro se defendant, Deion L. Sanders, pleadings under Fed. R. Civ. .P 37(b)(2)A, and entry of default judgment, as discovery sanctions under Fed. R. Civ. .P 37(b)(2)A(iii),(vi), and the award of additional attorney's fees, including progressive sanctions as ordered in 3:06-cv-00793-BH; *Securities and Exchange Commission V. EFS L.L.C.*, et al, order, (doc. 80), Plaintiffs further pray for all relief, at law and in equity, to which they show themselves justly entitled.

Respectfully submitted,

By: /S/ DON R STEWART
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ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I certify that on January 13, 2018, I placed a telephone call to Pro Se, Defendant, Deion L. Sanders, which was not personally answered and the recorded message stated “the person you are trying to call has a voice mailbox that has not been set up yet. Please call again later. I called the same number three (3) more times later, and got the same message. On the same day, I sent an email to Pro se defendant, Deion L. Sanders, requesting that he contact me at my office or cellular phone numbers to discuss whether he opposes the foregoing motion. My email history reflected

“Your message was successfully delivered to the destination(s) listed below. If the message was delivered to mailbox you will receive no further notifications. Otherwise you may still receive notifications of mail delivery errors from other systems.

“Please direct further questions regarding this message to your e-mail administrator.

“--AOL Postmaster

“deionssr@aol.com : delivery via lmtp.mail.aol.com[10.96.116.210]:7025: 250

“2.1.5 OK”

As of today, Tuesday, January 16, 2018, I have not received any response from either, Pro se defendant, Deion L. Sanders, personally, or any person on his behalf, whatsoever. Therefore, it appears that a conference as to whether the foregoing motion is opposed is not possible.

/s/ Don R. Stewart

Don R. Stewart,
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiffs' Second Amended Motion For Sanctions And Contempt of Court Against pro se defendant, Deion L. Sanders ,has been provided, via CM/ECF, on the 10th day of June 2018 to:

Clay R. Mahaffey, Assistant United States Attorney
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